### Learning Services Online Course Participant Guide

**Course Title:** FMLA/VPFLA/Military Leave Online Course  
**Target Audience:** Participants in the Supervisory Learning Series

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**Benefits Groups**

<table>
<thead>
<tr>
<th>Full Time</th>
<th>Months of Year Worked</th>
<th>Full-Time Equivalency (FTE)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Group A</td>
<td>12 Months</td>
<td>100%</td>
</tr>
<tr>
<td>Group B</td>
<td>9, 10, 11 Months (Academic Year)</td>
<td>100%</td>
</tr>
<tr>
<td>Group C</td>
<td>12 Months</td>
<td>75-99%</td>
</tr>
</tbody>
</table>

**Part Time**

| Group D   | 9, 10, 11 Months (Academic Year)| 75-99%                      |
| Group E   | 12 Months                      | 50-74%                      |
| Group F   | 9, 10, 11 Months (Academic Year)| 50-74%                      |

Employees in benefits group A earn the equivalent of one day per month or 12 days per year. If your standard hours are 7.5 per day, you will receive 90 hours per year. If your standard hours are 8 per day, you will receive 96 hours per year.

Employees in benefits groups B through F are eligible for the same number of medical leave hours, but they are prorated based on the employee’s full time equivalent, or FTE. For example, an employee that works an 85% FTE of a 37.5 hour work week receives 76.5 hours per year. An employee that works a 50% FTE of a 40 hour work week is entitled to 48 hours per year.

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**Earning Medical Leave**

New employees automatically receive the equivalent of one year’s worth of medical leave on the day they are hired. These hours can be used immediately, however any probationary period that has been applied, can be extended by the amount of medical leave that is taken.

After one year of employment with UVM, new employees begin earning medical leave on a monthly basis. Accrual of medical leave is unlimited, but unlike vacation time, unused hours are not paid out to the employee upon her or his leaving the University. Additionally, medical leave cannot be shared between employees.

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**When to Use UVM Medical Leave**

- During an illness
- To attend medical/dental appointments
- To actively care for a seriously ill immediate family member
  - Spouse (or partner in a civil union)
  - Child/Stepchild
  - Parent/Stepparent
  - Parent/Stepparent of your spouse (or partner)
- For childbearing

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**FMLA Entitlements**

Twelve weeks of leave (60 days) in a 12-month period for:

- the birth of a child and to care for the newborn child within one year of birth;
- the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
- to care for the employee’s spouse, child, or parent who has a serious health condition;
• a serious health condition that makes the employee unable to perform the essential functions of his or her job;
• any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on “covered active duty”

**OR**

• Twenty-six weeks (130 days) of leave during a single 12-month period to care for a covered service member with a serious injury or illness who is the spouse, son, daughter, parent, or next of kin to the employee (military caregiver leave).

**VPFLA Entitlements**

In addition to the Federal FMLA law, the State of Vermont has enacted the Vermont Parental and Family Leave Act or VPFLA. The law requires many employers, including UVM, to allow full-time employees to take up to 12 weeks per year of unpaid leave for pregnancy, birth, adoption or serious illness of themselves or close family members. Employers may not retaliate against employees who exercise their rights under the law and normally must reinstate employees in their jobs on return from leave.

• The parental leave section of the act applies to employers with 10 or more employees.
• The medical leave section of the act applies to employers with 15 or more employees.
• To qualify under the act employees must be continuously employed by the same employer for a period of one year for an average of at least 30 hours per week.

Vermont law also allows many employees to take up to 24 hours per year (4 hours per month) of short-term unpaid leave for routine medical and dental care, children’s academic needs, medical emergencies, and the like.

**FMLA vs. VPFLA**

<table>
<thead>
<tr>
<th></th>
<th>Federal Law</th>
<th>VT Law</th>
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<tbody>
<tr>
<td>Number of employees required for coverage</td>
<td>50 or more employees (within 75 miles)</td>
<td>10 or more employees (parental leave) or 15 or more employees (family &amp; short term leave) – location of employees is irrelevant</td>
</tr>
<tr>
<td>How long must employee work to be eligible?</td>
<td>12 months (minimum of 1250 hours)</td>
<td>12 months (average of 30 hours per week)</td>
</tr>
<tr>
<td>Weeks of leave annually</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>What is family leave?</td>
<td>Leave for birth or adoption of a child or placement of a child for foster care and in order to care for that child.</td>
<td>Leave for serious illness of employee or family member.</td>
</tr>
<tr>
<td>What is parental leave?</td>
<td>Not applicable – see “what is family leave” above</td>
<td>Leave for pregnancy, birth or adoption of a child under age 16</td>
</tr>
<tr>
<td>What is medical leave?</td>
<td>Leave for serious health condition of employee, which prevents him/her from performing job duties or to care for family member with serious health condition</td>
<td>Not Applicable – see “what is family leave” above</td>
</tr>
<tr>
<td>What is a serious health condition?</td>
<td>A serious health condition is defined</td>
<td>A serious illness is defined as one</td>
</tr>
</tbody>
</table>
“serious health condition” or a “serious illness?”  
<table>
<thead>
<tr>
<th>Definition</th>
<th>Definition</th>
<th>Definition</th>
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<tbody>
<tr>
<td>as one requiring inpatient care or continuing treatment by a health care provider. DOL regs. define this to include pregnancy or an incapacitating illness of more than 3 calendar days length.</td>
<td>requiring inpatient care or continuing treatment by a health care provider. There are not interpretive regulations, but DOL’s federal guidelines are persuasive because the statutory definitions are so similar.</td>
<td></td>
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</tbody>
</table>

**For what family member can leave be taken?**  
| Spouses working for the same employer each take leave based on the same condition/event? | Medical leave can be taken to care for the employee’s spouse, child or parent with a serious health condition. (Spouse probably does not include civil union partner). | Family leave can be taken for the serious illness of the employee’s child, stepchild or ward who lives with the employee, foster child, parent, spouse or parent of spouse. Spouse includes civil unions. |

**Can spouses working for the same employer each take leave based on the same condition/event?**  
| Spouses working for the same employer may be limited to a total of 12 weeks of leave for the birth and care of a child, or the placement of a child for adoption of foster care or to care for such a child. |  | Yes. Each spouse is entitled to 12 weeks of leave annually. |

**Do benefits continue during leave?**  
| Health insurance only | All benefits continue |

**Who pays for benefits during leave?**  
| Employee/employer each pay the proportion toward health insurance that they did during regular work time. | Employee/employer each pay the proportion of all benefits that they did during regular work time. |

**Can employee use vacation, sick or other paid leave during leave?**  
| No limitation on amount of such leave employee may use – Employer can require employee to use up such time. | May use up to 6 weeks (at employee’s option only) of accrued paid leave time during leave. |

**Reinstatement of employee required when leave ends?**  
| Yes – unless employer can show that employee was terminated or denied reinstatement for reasons unrelated to the leave. | Yes – and employer has burden to prove by clear & convincing evidence that employee was terminated/not reinstated for permitted reasons. |

**Short term leave available?**  
| No. | Yes, for a broad range of school, medical and professional activities for self, children and other relatives, up to 4 hours per 30 days, up to 24 hours per 12 months, in increments of 2 hours. (7 days’ notice required except in case of emergency). |

**Uniformed Services Employment and Reemployment Rights Act (USERRA)**  

The Uniformed Services Employment and Reemployment Rights Act, or USERRA, provides employees who are called up to perform military service with reemployment rights.

- Protects employees who are gone from work for up to five years.
- Existing health plans must be offered to the employee for 18 months.
- If leave is 90 days or less, the employer must promptly return the employee to the same job. Employees continue to accrue seniority during leave.
- If leave is more than 90 days, the employer may substitute a different job with the same pay, status and seniority.
• If leave lasts more than 30 days, the law provides job protection for returning employees for six to 12 months. During that time, the employee may only terminated for cause.

**Vermont Military Service and Leave**

A member or applicant for membership in the National Guard shall not be denied initial employment, reemployment, and retention of employment, promotion or any benefit of employment on the basis of service, application to service or obligation to serve.

Two Amendments to FMLA for military families:

• New qualifying reason for leave. Up to 12 weeks of leave because of “any qualifying exigency” arising out of the fact that the spouse, son, daughter or parent of the employee is on active duty, or has been notified of an impending call to active duty status in support of a contingency operation.

• New leave entitlement. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the service member.

Any absence for military training or state active duty shall not affect the employee’s right to receive normal vacation, sick leave, bonus, advancement, and other advantages of employment normally anticipated in the employee’s position.

**Staff Leave Request Quiz #1**

Jane calls you at the beginning of her work day. Her car won’t start. She wants the day off. What type of leave can Jane take?

a. Sick/Medical Day  
  b. Vacation Day  
  c. Personal Day  
  d. None of the above

**Staff Leave Request Quiz #2**

Li’s husband passes away and she needs bereavement leave. How much paid time is she allowed?

a. Two Days  
  b. Three Days  
  c. Four Days  
  d. Five Days

**Staff Leave Request Quiz #3**

Andrew needs 10 weeks of leave because he is adopting a child. How much unpaid time is Andrew entitled?

a. No Time  
  b. Three Weeks  
  c. Six Weeks  
  d. Twelve Weeks
<table>
<thead>
<tr>
<th>Staff Leave Request Quiz #4</th>
<th>Notes</th>
</tr>
</thead>
</table>
| Senad requests ten hours of unpaid leave over a six month period to attend teacher conferences and school functions for his two children. Is this request acceptable?  
  a. Yes  
  b. No | |

<table>
<thead>
<tr>
<th>Staff Leave Request Quiz #5</th>
<th>Notes</th>
</tr>
</thead>
</table>
| Terri asks for 12 weeks of unpaid leave to care for her same sex partner’s father (living in Oregon). Is this an acceptable request?  
  a. Yes  
  b. No | |

<table>
<thead>
<tr>
<th>Staff Leave Request Quiz #6</th>
<th>Notes</th>
</tr>
</thead>
</table>
| Matasi wants to take March 19, 20 and 21 as his cultural holidays. Is this request acceptable?  
  a. Yes  
  b. No | |

<table>
<thead>
<tr>
<th>Staff Leave Request Quiz #7</th>
<th>Notes</th>
</tr>
</thead>
</table>
| Marty’s daycare center is closing for two weeks because the provider is recovering from surgery. Marty asks for leave to care for his child during this time. He wants to use his accrued medical leave to cover the time out. Is this an acceptable request?  
  a. Yes  
  b. No | |

<table>
<thead>
<tr>
<th>Resources</th>
<th>Notes</th>
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</table>
• Please contact your HRS Management Consultant to discuss individual requests when you are uncertain of the policy. | |
As a participant in the Supervisory Learning Series, you will have an opportunity to discuss Confidentiality with subject matter experts in one of your classroom sessions. Take this opportunity, while it is fresh in your mind, to write down your observations about the content or to list the questions you have. Come to the session prepared for the conversation.

**Observations:**

**Questions:**